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17 Attorneys for Defendant
18 Conseco Life Insurance Company

19 UNITED STATES DISTRICT COURT
20
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA

22 SAN FRANCISCO DIVISION

23)	CASE NO.: M:10-CV-02124-SI
24)	
25)	
26)	
27)	STIPULATION AND PROPOSED
28)	ORDER CONCERNING CLASS
)	CERTIFICATION BRIEFING
)	SCHEDULE AND HEARING
)	
)	
)	

1 WHEREAS, the Brady Plaintiffs are scheduled to file a reply in further support of the
2 Brady Motion on February 19, 2010, and a hearing on the Brady Motion is scheduled for March 5,
3 2010;

4 WHEREAS, on February 5, 2010, pursuant to a transfer order from the United States Panel
5 on Multidistrict Litigation, the Court established this MDL consolidating the *Brady* case, the
6 *McFarland* case, and another individual (non-class action) case (*Muldrow v. Conseco Life Ins. Co.*,
7 No. 4:08-CV-552-RH-WCS (N.D. Fla. filed Dec. 12, 2008));

8 WHEREAS, the Brady Plaintiffs, McFarland and Conseco Life wish to avoid inefficiency
9 and the inconsistent adjudication of the Brady Motion and the McFarland Motion;

10 WHEREAS, in light of the establishment of the MDL, the Brady Plaintiffs and McFarland
11 wish to file a consolidated motion for class certification;

12 WHEREAS, the Brady Plaintiffs, McFarland and Conseco Life have conferred and agree
13 that the Brady Plaintiffs and McFarland may withdraw their respective motions for class
14 certification, and file a joint, consolidated motion for class certification for consideration by the
15 Court; and

16 WHEREAS, Local Rule 7-4 imposes a page limit of twenty-five pages on a brief or
17 memorandum of points and authorities filed in support of a motion or opposition, and a page limit
18 of fifteen pages on a reply memorandum.

19 **STIPULATION**

20 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the undersigned as
21 follows:

22 1. The Brady Motion and the McFarland Motion shall be withdrawn without prejudice,
23 and the hearing on the Brady Motion currently scheduled for March 5, 2010 in *Brady*, No. 3:08-
24 CV-05746, shall be removed from the Court's motion calendar;

25 2. The Brady Plaintiffs and McFarland may file a joint, consolidated motion for class
26 certification, which motion may not exceed fifty pages in length and may be filed no later than
27 March 11, 2010 ("Joint Motion For Class Certification");
28

1 3. Conseco Life may file an opposition to the Joint Motion For Class Certification not
2 to exceed sixty pages in length no later than April 22, 2010;

3 4. The Brady Plaintiffs and McFarland may file a joint, consolidated reply
4 memorandum in further support of the Joint Motion For Class Certification not to exceed twenty-
5 five pages in length no later than May 13, 2010;

6 5. A hearing on the Joint Motion For Class Certification may be heard on May 28,
7 2010, or at any other subsequent time as the Court's schedule may permit.

8 DATED: February 16, 2010

Millstein & Associates

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10 By: /s/ David J. Millstein
David J. Millstein
Attorneys for the Brady Plaintiffs

11
12 DATED: February 16, 2010

Gilbert LLP

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14 By: /s/ August J. Matteis, Jr.
August J. Matteis, Jr.
Attorneys for the Brady Plaintiffs

15
16 DATED: February 16, 2010

Berman DeValerio

17
18 By: /s/ Michael Pucillo
Michael Pucillo
Joseph J. Tabacco
Chris Heffelfinger

19
20 Attorneys for Plaintiff McFarland

21
22 DATED: February 16, 2010

Skadden, Arps, Slate, Meagher & Flom LLP

23 By: /s/ David S. Clancy
Raoul D. Kennedy
James R. Carroll (Admitted *Pro Hac Vice*)
David S. Clancy (Admitted *Pro Hac Vice*)

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25 Attorneys for Defendant
26 Conseco Life Insurance Company
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ATTESTATION PURSUANT TO GENERAL ORDER 45


I, David S. Clancy, am the ECF User whose ID and password are being used to file this Stipulation And Proposed Order. In compliance with General Order 45.X.B, I hereby attest that concurrence in the filing of this document has been obtained from each of the other signatories. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 16th day of February, 2010, at Boston, Massachusetts.

By: /s/ David S. Clancy
David S.Clancy

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated:

By: 
Hon. Susan Illston